

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SPHERE 3D CORP.,

Plaintiff-Counterdefendant,

v.

GRYPHON DIGITAL MINING, INC.,

Defendant-Counterplaintiff.

Case No. 23-cv-02954 (PKC)

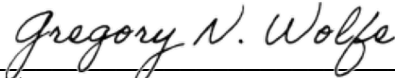
The Hon. Judge P. Kevin Castel

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Motion to Dismiss and all other papers and proceedings herein, Plaintiff-Counterdefendant Sphere 3d Corp. (“Sphere”) will move this Court, before the Honorable P. Kevin Castel, United States District Court Judge for the Southern District of New York, located at 500 Pearl Street, New York, New York 10007, on a date and time to be set by the Court, for an order (1) dismissing Counts II and III of Defendant-Counterplaintiff Gryphon Digital Mining, Inc.’s (“Gryphon”) Amended Counterclaim with prejudice; (2) awarding Sphere its reasonable attorneys’ fees associated with this motion under the MSA’s prevailing-party provision (*see* Dkt. 36-1 at 3); and (3) granting Sphere such other and further relief as the Court deems just and proper.

Dated: November 9, 2023
New York, NY

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